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I N  S E N A T E

March 3, 2016

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to medical authorization forms to disclose private medical information for people in the custody of the department of corrections and community supervision

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 71 of the correction law is amended by adding a new subdivision 9 to read as follows:

9. (A) ANY PERSON WHO IS IN THE CUSTODY OF THE DEPARTMENT SHALL RECEIVE AN OPPORTUNITY TO COMPLETE AN AUTHORIZATION FORM TO DISCLOSE PRIVATE MEDICAL INFORMATION AND MENTAL HEALTH TREATMENT INFORMATION TO ANY NEXT OF KIN OR OTHER REPRESENTATIVE OF HIS OR HER CHOICE UPON SUCH PERSON'S ARRIVAL AT A DESIGNATED RECEPTION FACILITY AND UPON ORIENTATION CONDUCTED AT ANY FACILITY AS A RESULT OF ANY TRANSFER DURING THE COURSE OF SUCH PERSON'S INCARCERATION. SUCH AUTHORIZATION SHALL BE IN FORCE UNTIL THE INMATE IS TRANSFERRED, DIES OR REVOKES SUCH AUTHORIZATION IN WRITING. SUCH AUTHORIZATION MAY BE REVISED OR REVOKED UPON REQUEST BY THE INMATE.

(B) (I) THE COMMISSIONER SHALL PROVIDE A COPY OF SUCH FULLY EXECUTED AUTHORIZATION TO THE INMATE AND A FULLY EXECUTED ORIGINAL FORM TO THE PERSON AUTHORIZED AT SUCH ADDRESS AS THE INMATE MAY PROVIDE.

(II) THE COMMISSIONER SHALL KEEP A FULLY EXECUTIVE ORIGINAL OF SUCH AUTHORIZATION FORM IN THE INMATE'S PERSONAL MEDICAL RECORD.

(III) SUCH NEXT OF KIN OR OTHER REPRESENTATIVE AUTHORIZED ACCESS IS TO BE PROVIDED WITH SUCH INMATE'S PROTECTED HEALTH INFORMATION AS GOVERNED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, ALSO KNOWN AS HIPAA, 42 USC 1320D, 45 CFR 160-164, AND SECTIONS SEVENTEEN AND TWENTY-SEVEN HUNDRED EIGHTY-TWO OF THE PUBLIC HEALTH LAW. ANY PHYSICIAN, HEALTH CARE PROFESSIONAL, DENTIST, HEALTH PLAN, HOSPITAL, CLINIC, LABORATORY, PHARMACY OR OTHER HEALTH CARE PROVIDER IS HEREBY AUTHORIZED TO GIVE, DISCLOSE AND RELEASE TO THE APPOINTED NEXT OF KIN OR OTHER REPRE-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SENTATIVE ALL OF SUCH INMATE'S HEALTH INFORMATION NOT OTHERWISE RESTRICTED BY LAW.

(IV) WHERE AN INMATE IS UNDER THE CARE OF THE OFFICE OF MENTAL HYGIENE, AN AUTHORIZATION FOR RELEASE OF INFORMATION PURSUANT TO SECTION 33.13 OF THE MENTAL HYGIENE LAW SHALL PROVIDE ANY NEXT OF KIN OR OTHER REPRESENTATIVE AUTHORIZED WHO HAS OBTAINED SUCH CONSENT DISCLOSURE OF INFORMATION RELATING TO THE CARE AND TREATMENT OF THE PATIENT.

(V) THE COMMISSIONER SHALL ENSURE THAT COPIES OF SUCH FORM ARE MAINTAINED IN ALL OF ITS FACILITIES' LAW LIBRARIES.

(C) THE COMMISSIONER SHALL CONSULT WITH, AND BE ENTITLED TO RECEIVE, THE ASSISTANCE OF THE COMMISSIONER OF MENTAL HYGIENE AND THE EXECUTIVE DIRECTOR OF THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS IN THE IMPLEMENTATION OF THIS SUBDIVISION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act on its effective date is authorized to be made on or before such effective date.